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January 15, 2015

Ms. Kristine Koch
Remedial Project Manager
United States Environmental Protection Agency, Region 10
Office of Environmental Cleanup, Mail Code: ECL-115
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

File No. 015028-0026

Re: Second Information Request: Portland Harbor Superfund Site, Portland, Oregon

Dear Ms. Koch:

This letter is in response to the § 104(e) Second Information Request dated November 26, 2014, from Cami Grandinetti, Program Manager, Remedial Cleanup Program, Office of Environmental Cleanup, Environmental Protection Agency ("EPA") directed to The DIL Trust ("DIL Trust") relating to the Portland Harbor Superfund Site (the "Second Request").

For clarification, the initial due date was extended from January 7 to January 15, 2015, pursuant to a December 22, 2014 letter from Ms. Grandinetti. We also note that in contrast to using the term "Site" to refer to the Portland Harbor Superfund Site, EPA has defined "Site" for purposes of the Second Request to mean each property listed in the attachment titled "DIL Trust Affiliated Properties," namely, Willamette Cove, Swan Island Shipyard, Former Albina Shipyard, AEMW Upland Facility, and Former Shaver Sump.

In response to the Second Request, DIL Trust has undertaken a search of reasonably available information relating to Albina Engine & Machine Works' or Dillingham Ship Repair's activities at the Site. DIL Trust has reviewed the documents forwarded to DIL Trust by the Port of Portland and searched for documents in DIL Trust's storage areas. In addition, DIL Trust has interviewed available former employees and contacted insurers knowledgeable about DIL Trust's and its predecessors-in-interests' insurance policies. DIL Trust also reviewed certain documents available to it on the Participation and Common Interest Group Document Repository. Please be advised that, although DIL Trust has conducted a diligent and good faith review of records and information, its efforts are necessarily constrained by the following facts:

1. The Second Request relates to information and documents that are decades old;
2. Neither Albina nor DSR has operated at the Portland Harbor since 1987;

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3. DIL Trust was not contacted by EPA until late 2009 (more than 20 years after DSR's operations ceased);
4. Through normal records retention for closed operations, relevant documents are no longer available;
5. Many of the former employees of Albina or DSR who would be expected to have information responsive to the Second Request are deceased or otherwise unavailable; and
6. DIL Trust has attempted to conserve its limited funds to maximize the monies available for cleanup and minimize the monies diverted to administrative and legal fee expenses.

Notwithstanding the above limitations, DIL Trust is making a good faith effort to respond to the Second Request. DIL Trust submits the below information based upon its investigation. DIL Trust reserves the right to supplement this response.

Please do not hesitate to call me at (213) 891-8234 if you have any further questions. We would welcome the opportunity to discuss this information.

Sincerely,

Handwritten signature of Kirk A. Wilkinson in black ink, with a small 'KAW' monogram at the end.

Kirk A. Wilkinson
of LATHAM & WATKINS LLP

Enclosure

The following is the response to the § 104(e) Second Information Request dated November 26, 2014 from EPA Region 10. This response is submitted by DIL Trust on behalf of Dillingham Corporation, Dillingham Ship Repair (“DSR”) and Albina Engine and Machine Works (“Albina”) because these entities no longer exist.¹

Definitions

“DIL Trust” refers to The DIL Trust, a Liquidating Trust formed under the laws of the State of Delaware in June 1987. Where appropriate, “DIL Trust” will be used to describe the information known to DIL Trust and, where necessary, the particular entity involved in the historical events will be identified.

Please refer to the Definitions Section of the November 26, 2014 Second Information Request for additional defined terms.

Question 1 Respondent Information

- a. The full legal, registered name and mailing address of DIL Trust is:

The DIL Trust
c/o Kirk A. Wilkinson
Latham & Watkins LLP
355 South Grand Avenue
Los Angeles, CA 90071-1560

The Trustee(s) of DIL Trust may be contacted through counsel for DIL Trust, Latham & Watkins LLP, at the above address. DIL Trust has no other agents or employees. Albina, DSR, Dillingham Corporation, Fabri-Valve Company of America, and other predecessor companies to Dillingham Holdings, Inc. that owned or operated any type of business within the Portland Harbor Superfund Site Investigation Area no longer exist.

- b. Persons answering these questions on behalf of DIL Trust are:

Kirk A. Wilkinson
Partner, Latham & Watkins LLP
355 South Grand Avenue
Los Angeles, CA 90071-1560
(213) 485-1234 – phone
(213) 891-8763 – fax
kirk.wilkinson@lw.com

Kira S. Dabby
Associate, Latham & Watkins LLP

¹ DIL Trust has not located documents relating to its indirect predecessor Dillingham Corporation’s purchase of Albina and therefore cannot attest to the details of that transaction.

885 Third Avenue
New York, NY 10022
(212) 906-4595 – phone
(212) 751-4864 – fax
kira.dabby@lw.com

c. DIL Trust designates Kirk Wilkinson for all future correspondence concerning the Site. Please see the response to Question 1 for contact information.

Question 2 Property Information

a. Attached as Exhibit A please find information within DIL Trust's possession related to Albina's and DSR's operations and activities at the Portland Harbor Superfund Site. As discussed, this information is comprised of certain documents that DIL Trust knows to exist in the Participation and Common Interest Group ("PCI Group") Document Repository, or received from the Port of Portland, which the PCI Group agreed we could share with EPA.

b. Attached as Exhibit B please find information sent to DIL Trust by the Port of Portland related to sampling or cleanup activities at the Portland Harbor Superfund Site. In addition, information responsive to this question may be included within Exhibit A.

Question 3 Financial Information

a. Attached as Exhibit C please find true and complete Federal Tax Returns, including all supporting schedules, for tax years 2011, 2012, and 2013.

b. The information sought by this request exists within DIL Trust's audited Annual Financial Statements, which already have been provided to EPA or will be provided to EPA herewith.

c. DIL Trust previously provided to EPA audited Annual Financial Statements for 2011 by letter dated November 1, 2013 from Kirk A. Wilkinson to Lori Houck Cora. DIL Trust previously provided to EPA audited Annual Financial Statements for 2013 by email dated May 22, 2014 from Kira S. Dabby to Lori Houck Cora, Michael McNulty, Eric Albert, and Hiral Shah. The audited Annual Financial Statements for 2012 is enclosed herewith as Exhibit D.

d. DIL Trust is a party to an action titled *Travelers Casualty and Surety Co. v. DIL Trust*, filed in the Superior Court of the State of California for the County of Orange on October 8, 2014; however, this action seeks only declaratory relief. DIL Trust potentially could be named as a party to similar insurance coverage actions arising from its demand(s) for coverage. In addition, DIL Trust has received demand letters from interested parties and/or groups of parties involved at the Portland Harbor Superfund Site. Such demand letters are included within Exhibit A attached hereto.

e. Dillingham Corporation has been named a potentially responsible party at the Iwilei section of the Honolulu Harbor Contaminated Area in Hawaii. The cleanup costs for this Site have not yet been determined; however, the cleanup amount for this area is estimated to exceed \$30 million. Notice letters concerning this site are attached hereto as Exhibit E. DIL

Trust also has been named as a potentially responsible party for a natural resource damage claim concerning the Thea Foss Waterway. DIL Trust expects to resolve its potential liability for less than \$30,000 in the first quarter of 2015 pursuant to a mediated settlement and Consent Decree. In the past, DIL Trust had been named as a potentially responsible party at other environmental sites; however DIL Trust's liability at these sites has been resolved without continuing exposure except as noted herein.

f. DIL Trust does not anticipate receiving any financial settlement, except as may be obtained from insurance to fund settlements at Portland Harbor or Honolulu Harbor.

Question 4 Insurance Policy and Related Information Request

a. Policies or evidence of policies in the possession of counsel for DIL Trust, which were issued to DIL Trust, Dillingham Corporation, Albina, or DSR, and which may provide insurance coverage related to the Site, are attached hereto as Exhibit F.

b. Please see the response to Question 4.a.

c. Please see the response to Question 4.a.

d. A chart listing policies known to counsel for DIL Trust, which were issued to DIL Trust, Dillingham Corporation, Albina, or DSR, and which may provide insurance coverage related to the Site, is attached hereto as Exhibit G. Additional information responsive to this request is included within the policies supplied in Exhibit F. This request additionally demands the address of the insured on each policy. Dillingham Corporation and Albina no longer exist and therefore have no address. Please see the response to Question 1 for the address of DIL Trust.

e. During 2008, DIL Trust became aware of litigation entitled *Port of Anacortes v. Royal Globe Insurance Co., et al.*, No. 07-2-02073-2 filed in the Superior Court, Skagit County, Washington, among the Port of Anacortes (the "Port"), Royal Globe Insurance Company ("Royal") and other parties concerning claims for recovery of certain environmental investigation and remediation costs, allegedly covered by Dillingham Corporation's insurance policies under which the Port was named as an additional insured. As that litigation progressed, Royal joined the Port's insurers, the Hartford and Safeco, as additional parties. The Port then sought permission of the Court to amend the pleadings to include Dillingham Corporation and DIL Trust as third-party defendants. In its proposed amended pleadings, the Port alleged that Dillingham Corporation had occupied certain property located near the Port. Before either Dillingham Corporation or DIL Trust made an appearance in the litigation, Royal, the Port and the other parties reached an agreement in principle to resolve all claims. The Port completed its negotiations with the other parties, and during 2010, Royal finalized its settlement, including releases to and from the DIL Trust, without any financial contribution from the DIL Trust.

In addition, and as EPA is aware, DIL Trust is responding to claims at Honolulu Harbor, Hawaii, and is doing so under a confidential cost sharing agreement involving various insurers, including Gulf Underwriters Insurance Company ("Gulf").

As EPA also is aware, Gulf has been providing DIL Trust with a partial defense at Portland Harbor under a reservation of rights. This partial defense includes payment of DIL Trust's obligations pursuant to a confidential cost sharing agreement entered into among potentially responsible parties related to the River Mile 11E Administrative Settlement Agreement and Order on Consent for Supplemental RI/FS Work.

f. The settlement agreement described in Section 3.e above is confidential and cannot be disclosed. DIL Trust is not aware of any settlement agreements between Respondent and any insurer related to the Commencement Bay Nearshore/Tideflats Superfund Site, Tacoma, Washington.

g. Communications between DIL Trust and insurers regarding the policies referenced above are attached hereto as Exhibit H. Exhibit H includes communications initiated by counsel for DIL Trust or on DIL Trust's behalf.

h. To the extent the information requested in Question 4.h is in the possession of DIL Trust, please see the response to Question 4.a.

Question 5 Compliance with this Request

a. DIL Trust reviewed or consulted with the following individuals in responding to the Second Request.

i. Jerry Sullivan, Consultant to DIL Trust

Kyong-su Im, counsel to DIL Trust, Honolulu Harbor cleanup

Bruce White, Coordinating Counsel, Participation & Common Interest Group

Certain members of Participation & Common Interest Group

Melissa Tramadeo, Assistant Director, SLCU, Travelers

Henry Booth, President, R.M. Fields, L.P.

Individuals referenced in communications attached as Exhibit H

- ii. Counsel for DIL Trust reviewed information and policies obtained from the above-referenced sources and stores certain of this information on its computer network and in its offices. Other information is stored in the PCI Group Document Repository.

DECLARATION

I declare under penalty of perjury that I am authorized to respond on behalf of Respondent and that the foregoing is complete, true, and correct to the best of my knowledge.

Executed on January 15, 2015



Signature

Kira S. Dabby

Type or Print Name

Associate

Title

Mailing Address
Kira S. Dabby
Latham & Watkins LLP
885 Third Avenue
New York, NY 10022-4834